



EFP Circular # 6

Update on the Minimum Wage Case

A gazette notification dated 12 November 2021 issued under Section 6 (I) (a) of Sindh Minimum Wages Act 2015 is being circulated on social media which shows that Minimum Wages is payable @ Rs. 25,000/- effective 1st July 2021.

This notification, however, is not the notification about which the Sindh High Court has issued directions to the Sindh Government in its Judgement dated 15 October 2021. This Gazette notification is a verbatim publication of the earlier notification issued by the Sindh Government dated 09 July 2021 which was challenged at the Sindh High Court on which the Sindh High Court has issued certain directives for purpose of implementation of minimum wages.

The notification being circulated in the social media is, therefore, irrelevant and of no additional value so far as the implementation of the Judgement of the Sindh High Court is concerned.

It is for the information of the members that the Sindh High Court in its Judgement dated 15 October 2021 has issued the following three directives:

1. As mentioned in para 15 of the Judgement, the Government shall immediately publish the notification as required in terms of the notification itself as: -

*"II. These Minimum rates of wages shall be applicable as per provisions of the Sindh Minimum Wages Act, 2015 and shall come into force with effect from 01.07.2021, **after approval and notification to be issued by Government of Sindh, under Section 6 of the said Act.**"*

The Government has not yet complied with this directive. The gazette notification in circulation cannot be taken as the notification directed in the Judgement because it is the same old notification dated 09 July 2021 which was challenged in the Sindh High Court and contains para II quoted above saying that these minimum wages shall come into force after approval and notification to be the issued by the Government of Sindh under Section 6 of the said Act.

It may also be noted that as per para 52 of the Judgement, the application of the notification shall be from the date of publication of the notification as directed in para 51 of the Judgement.



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2. As per para 52 of the Judgement, the Hon'ble Sindh High Court observed that since the grievance of the employers has come on record, therefore, the Government regardless of the enforcement of the notification, shall treat the matter as falling within meaning of section 6 (V) (I) of the Act which reads as:

*“(5) Where after the publication of a notification under subsection (1) of sub-section (3) or after the minimum rates of wages declared thereunder have taken effect, it comes to the notice of Government that **there is a mistake in the minimum rates of wages so declared**, or that **any such rate is inequitable to the employers or the workers**, it may refer the matter to the Board and any such reference shall be deemed to be a reference under sub-section (2)”*

According to this part of the Judgement, the Sindh Government has been directed to refer the matter of Minimum Wages to the Minimum Wage Board mentioning that due to a mistake in the minimum rates of wages so declared or that any such rate is inequitable to the employers or the workers, the same should be reviewed by the Minimum Wage Board. Unfortunately, such a reference had not yet been made by the Government of Sindh to the Minimum Wage Board which is a clear violation of the Order of the Sindh High Court.

3. As per para 53 of the Judgement, the Hon'ble Sindh High Court has directed that this process (of immediately publishing the notification) shall not take time more than a week from the publication of the Notification in the Official Gazette wherefrom the notified minimum wage rate is to be applicable. The Hon'ble High Court further observed that

“The Government, nevertheless, shall also give reasons for increase in the minimum wage rate from that as was recommended by the Board. The Board shall ensure completion of the process not beyond a period of two months and shall submit the recommendations to the Government which, without any unnecessary delay, shall ensure compliance of Section 6 (3) of the Act.”

The Government of Sindh has also not yet complied with the directive of the Sindh High Court, neither the notification has been published in the official gazette, as per the requirement of para 51 of the Judgement, nor the Government has communicated the Board about the reasons for the increase in minimum wage rate (Rs. 25,000) from that as was recommended by the Board (Rs. 19,000). The Board has not yet completed its process of deliberation and has not yet submitted the recommendations to the Government to enable the Government to make its final notification.



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In the absence of the actions to be taken by the Sindh Government in compliance with the directives contained in the Judgement of the Sindh High Court, the Government act of using the social media for promotion of minimum wage @Rs. 25,000, while it is supposed to be debated and reviewed by the Minimum Wage Board, is not only against the law but also amounts to contempt and the employers will be within their rights to approach the Court for the Contempt of Court being committed by the Government.

It may be mentioned that the Employers' Federation of Pakistan has addressed a letter to the Minimum Wage Board informing them about their reservation and the failure of the Government to comply with the directives of the Sindh High Court and requesting the Board to hear the representatives of the EFP on the subject. The EFP panel has been invited by the Chairman Minimum Wage Board to present its viewpoint on 30th November 2021. EFP has already nominated its panel to meet the Chairman MWB on the date above mentioned and present EFP's viewpoint.

In the meantime, since the Judgement of the Sindh High Court suffers from several lacunas, at the advice of its Legal Team EFP has filed an appeal in the Supreme Court of Pakistan challenging the Judgement of the Sindh High Court which is likely to be heard in the first or second week of December 2021.

We look forward that the Justice will be provided to the employers by the Supreme Court of Pakistan.

The above update in the matter of the minimum wage issue is for the information for our valued members and we will keep you updated about the progress on the subject.

With warm regards

Zaki Ahmed Khan

Acting President